

**RESPONSE**

The undersigned would hereby submit the following in reference to the specific concerns the examiner raised in the Office Action Summary dated January 24, 2006.

**CLAIM OBJECTIONS**

The examiner has indicated that a period appears in the middle of claim 15 and correction should be made. The undersigned has amended the claims to address that concern.

**REJECTIONS UNDER 35 USC 112**

The examiner has indicated that it is unclear how the term "concentric" circle is used and that the application does not clearly point out the invention in this case. The undersigned has addressed those concerns of the examiner by adding additional material to the specification and by appropriate amendments to the Claims.

The following language has been added to the specification at page 7, lines 7 - 21:

"The indented circle to secure the pint size can 800 is indented to a greater depth so that the bottom of the pint size can will rest flush against the top surface of the base. The indented circle to secure the quart size can 900 is indented to a lesser depth so that the bottom of the

quart size can will rest on the top surface of the base. This arrangement of one circle within another gives the appearance of concentric circles, which are offset from each other."

No new matter has been added. A clean copy and a marked up copy of the specification has been submitted with this response.

**REJECTIONS UNDER 35 USC 102**

Claim 1 and 15 are rejected as being anticipated by Lehman, U.S. Patent 4,901,846. The Lehman device is a tool to carry artist paints and contains a multitude of indentations or cavities and two plates to secure the cans in position.

With regard to Claim 1 the Lehman patent discloses a device with the following:

- a. base;
- b. spindle;
- c. clamp;
- d. compression spring;
- e. handle.

With respect to Claim 15 the Lehman device teaches a compression spring to secure the objects in the appropriate positions. The Lehman device consists of two circular pieces with a series of indentations to carry the cans of acrylic paints. The cans of paints fit completely within the

indentations on the plates and the spring compresses the plates - top and bottom - against the cans to secure them into position. The contents of the cans cannot be accessed without removing the can from between the plates.

The current device teaches a flat base member with a series of indented circles to carry the cans. There are two circles to accommodate two standard sized cans - a pint and a quart. The circles have different centers and therefore have the appearance of being concentric. The smaller circle is indented into the top surface of the base more than the larger circle. The cans themselves are secured to the current device with the clamp with the recessed grooves, which is compressed by the spring. The recessed grooves on the current device fit over the top lip of the can and provide the position on the device where the cans are secured. This type of securing means is a different structure than the one contemplated or taught by Lehman.

The advantage to the current application is that the worker can access the contents of the can without removing the can or cans from the device. In this type of can there is usually an applicator, which can be removed as necessary and replaced as necessary and the applicator is typically in the center of the can. This device allows access to the contents of the cans without removing the cans from the device and yet still insures that the cans are securely positioned on the device.

**REJECTIONS UNDER 35 USC § 103**

The examiner has rejected Claims 2 and 3 as being unpatentable over Lehman in view of Distler U. S. Patent number 6,036,020. Distler teaches a tray with concentric circles. The purpose of the concentric circles in the present device is to provide a space onto which the can is positioned during carrying the device. Because the type of material that is commonly used in the construction trade and particularly the plumbing trade comes in two standard sizes - a pint and a quart - two circles are used.

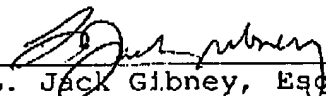
Other grounds of rejection center on the choice of material to construct the device. The examiner has correctly pointed out that the choice of materials is not critical and the undersigned has canceled the claims related to the choice of material.

Additionally the undersigned concedes that the size of the hole for the spindle is likewise not critical. Another reference that is cited by the examiner is Pinckard U.S. Patent 4,277,006 which teaches a clamp with two recessed and curved groove which clamps the object being carried i.e. roller skates.

**ARGUMENT**

The undersigned has clarified the meaning of the term "concentric circles" and amended the claims to distinctly point out the invention in this case and to better define exactly what is being considered as the invention. The advantage to this type of device is that the worker can carry two same sized cans, access the contents of the cans and then cover the contents of the cans without ever needing to remove the cans from the device.

It is hoped that the examiner review these comments and the amendments to the claims and put this application in line for allowance.

  
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**CERTIFICATE OF MAILING**

I hereby certify that this document for 10/681,436 is being deposited with the United States Postal Service with sufficient postage as first class mail on the date indicated below and is addressed to Harry Mumford, 2527 Jimmy Conner Place, Bryceville, Florida 32009 and to:

Commissioner for Patents, Alexandria, VA 22313-1450.

By: Lawrence J. Gibney, Jr.

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Date: February 2, 2006